



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/749,430	12/28/2000	Nicholas Sauriol	56130.000066	5692

7590 03/14/2006

James G. Gatto, Esq.
Hunton & Williams
Suite 1200
1900 K Street, N.W.
Washington, DC 20006

EXAMINER

PAN, YUWEN

ART UNIT	PAPER NUMBER
----------	--------------

2682

DATE MAILED: 03/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/749,430

Applicant(s)

SAURIOL ET AL.

Examiner

Yuwen Pan

Art Unit

2682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/29/05 has been entered.

Response to Arguments

2. Applicant's arguments with respect to claim 1-33 have been considered but are moot in view of the new ground(s) of rejection.

DETAILED ACTION

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-19, and 21-33 are rejected under 35 U.S.C. 102(e) as being anticipated by Lee et al (US006728531B1).

Per claim 1, Lee discloses a method for broadcasting radio programming over a wireless network including cellular transmission network, FM sub-carrier and satellite network, (figure 1 and item 80), the method comprising: providing radio programming (figure 3 and item 194) in a

Art Unit: 2682

format compatible with a processor based network (according to the applicant's specification, a processor based network is Internet; see column 2 and lines 21-35 in which shows that radio programs are converted to Internet based radio, and column 11 and lines 5-18, figure 3 and item 30 of Lee); enabling the radio programming to be accessible over the processor based network is connectable to a cellular transmission network (see figure 3 and item 180a); and transmitting the radio programming over the cellular transmission network after the radio programming is accessed over the processor based network (see column 12 and lines 13-22).

Same arguments apply, *mutatis mutandis*, to independent claims, 9, and 33.

Per claim 22, Lee discloses a receiver for receiving a radio programming signal broadcast over a cellular transmission network (see figure 1 and 2, item 20), the receiver comprising: an input for receiving the radio programming signal from a processor based data network through the cellular transmission network (see figure 1 and item 80, column 7 and lines 30-37), the radio programming being transmitted through the cellular transmission network after being accessed from the processor based network (see figure 3, column 11 and lines 5-18), wherein the radio programming is received by the processor based network from a radio programming source in a format compatible with the processor based network (see figure 3 and item 194); an audio output for delivering an audible portion of the radio programming signal (see figure 2 and item 152); a display for display a visible portion of the radio programming signal (see figure 2 and hierarchical channel display).

Per claims 2 and 3, Lee further teaches receiving the radio programming with a decoder receiver (see column 8 and lines 34-36).

Same arguments apply, *mutatis mutandis*, to claims 10 and 11

Per claim claims 4 and 5, Lee further teaches that the cellular transmission network transmits signals over a plurality of channels and the step of transmitting the radio programming further comprises: transmitting advertising information over at least one of the plurality of channels, transmitting the advertising information in a format that is displayable as visual display (see figure 3, column 11 and lines 20-37).

Same arguments apply, *mutatis mutandis*, to claims 6, 7, and 12-15.

Per claim 8, Lee further teaches that a format compatible with a processor-based network further comprises: accessing a radio station over the Internet (see column 11 and lines 5-19).

Same arguments apply, *mutatis mutandis*, to claims 16.

Per claim 17, Lee discloses an access device (Internet gateway) for enabling radio programming to be accessible over a processor based network, the access device comprising: an input for receiving radio programming in a format compatible with the processor based network (see column 2 and lines 16-35); a delivery module that deliver the radio programming to a cellular transmission network after radio programming is accessed over the processor based network (see figure 3 and item 210).

Per claim 18, Lee further teaches that the processor based network is the Internet (see column 2 and lines 20-35).

Per claim 19, Lee further teaches that the input further comprises an over-air radio broadcast receiver (see column 2 and lines 18-23).

Per claim 21, Lee further teaches that an additional input for receiving additional cellular transmission network signals (see column 14 and lines 46-59).

Same arguments apply, *mutatis mutandis*, to claims 25.

Per claim 23 and 24, it is inherently that the radio programming signal is decompressed by a decoder.

Per claim 26, Lee further teaches that a broadcast gateway verifies that the radio programming is in an appropriate format (see column 12 and lines 23-37).

Per claim 27, Lee further teaches that a broadcast gateway converts the radio programming to an appropriate format (see column 10 and line 64-column 11 line 4).

Per claim 28, Lee further teaches that a broadcast gateway forwards the radio programming to the processor based network (see figure 3 and item 30 and 180s).

Per claim 29, Lee further teaches an input for receiving radio programming (see figure 1), inherently a converter for converting the radio programming to an appropriate format and a delivery module, a base station control that delivers the radio programming to a cellular transmission network.

Per claims 30-32, Lee further teaches that the processor-based network comprises the Internet (see figure 3 and item 180).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lee et al (US006728531B1) in view of Enzmann et al (US006516203B1).

Per claim 20, Lee doesn't expressly teach that the broadcast system further comprises a signal compressor for compressing a signal associated with the radio programming received as input and an encoder for encoding the signal.

Enzmann et al teaches utilizing wireless Application Protocol to interface from the wireless system to the Internet.


Therefore, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to compress and encode an input signal with the broadcasting system such that the wireless communication system is able to adapt the signal from other media and broadcast it in its own domain.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yuwen Pan whose telephone number is 571-272-7855. The examiner can normally be reached on 8-5 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew D. Anderson can be reached on 571-272-0377. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Yuwen Pan
March 7, 2006


Matthew Anderson
SPE 2618